

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION )  
 )  
NUMBER 61-2156 (a16356) )

MEMORANDUM DECISION

Change Application Number 61-2156 (a16356) in the name of The Allen Family Revocable Trust and Burns K. and Mona Black, was filed to change the point of diversion of 1.75 cfs of water as evidenced by ownership of Water Right Number 61-2566, which is described on page 23 of the Sevier River Decree. The water has been diverted from Hunter Spring and an unnamed spring located at the following points: 1) North 1157 feet and West 1718 feet from the SE Corner of Section 6, T31S, R2W, SLB&M; 2) South 1625 feet and East 490 feet from the NW Corner of Section 3, T31S, R2W, SLB&M, and used for stockwater for 100 equivalent animal units and, from May 1 to October 15, for the irrigation for 70 acres of land.

Hereafter 1.75 cfs of water is to be diverted from the unnamed spring and the East Fork of the Sevier River at the following points: 1) South 1625 feet and East 490 feet from the NW Corner of Section 3, T31S, R2W, SLB&M; 2) South 1899 feet and West 1227 feet from the N1/4 Corner of Section 15, T31S, R2W, SLB&M, and used same as heretofore.

The application was advertised in the Garfield County News beginning September 19, 1991, and ending October 3, 1991, and a protest by the DMADC Companies was received.

A hearing was not held.

The protestants were concerned that if this change were approved, their vested and decreed water rights could be adversely impaired and diminished.

It is the opinion of the State Engineer that this change can be made without impairing existing rights if certain conditions are met:

It is therefore **ORDERED** and Change Application Number 61-2156 (a16356) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The applicants shall not divert more water from the Sevier River and the unnamed spring than they are entitled to under this right and is physically flowing in the unnamed spring and into the Sevier River from Hunter Spring.
- 2) To accurately measure the amount of water that is available to divert under this right, measuring devices shall be installed on the unnamed spring and on Hunter Spring at a point prior to water flowing into the Sevier River.
- 3) The amount of water diverted by the applicants from the Sevier River shall be limited to 1.75 cfs of water and limited to 210.0 acre-feet annually. The irrigation is based on an annual duty of 3.0 acre-feet of water per acre of land, which may be revised by a future

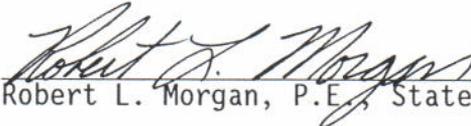
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adjudication of the Sevier River. The applicants are to use water represented by this change only on land that this water is decreed to.

- 4) Any additional costs incurred by the Sevier River Commissioner in the administration of this Change Application shall be borne by the applicants. The amount of such costs shall be determined by the River Commissioner and/or the State Engineer.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 4th day of September, 1992.

  
Robert L. Morgan, P.E., State Engineer

RLM:KF:cr:jb

Mailed a copy of the foregoing Memorandum Decision this 4th day of September, 1992, to:

The Allen Family Revocable Trust  
c/o Phil Allen  
P.O. Box 74  
Antimony, UT 84712

Burns K. Black and Mona Black  
Antimony, UT 84712

DMADC Companies  
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362 West Main  
Delta UT 84624

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Ray Owens  
River Commissioner  
2156 South Hwy 89  
Sevier, UT 84766

By: Judy Barbour  
Judy Barbour, Secretary